

RESOLUTION 2005-37

A RESOLUTION CONCERNING COMMISSION RATIFICATION OF THE EXECUTIVE DIRECTOR'S WAIVER OF 68 IAC 5-3-2 AND APPROVAL OF AZTAR INDIANA GAMING COMPANY, LLC'S PROPOSED INTERCOMPANY LOAN OF UP TO \$53 MILLION PURSUANT TO RESOLUTION 2005-24

The Indiana Gaming Commission (Commission) adopts the following resolution pursuant to the authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. Pursuant to IC 4-33-4-21, the Commission must review proposed debt transactions to ensure that a riverboat owner's license is not leased or hypothecated, or that money is not loaned or borrowed against the license.
2. In a letter dated March 29, 2005, Indiana riverboat licensee Aztar Indiana Gaming Company, LLC ("Aztar Indiana"), through its counsel, requested Commission approval and/or appropriate waivers of approval requirements for a proposed intercompany loan of up to \$53 million.
3. Specifically, the Promissory Note at issue called for Aztar Riverboat Holding Company, LLC, which is an affiliate of Aztar Indiana, to borrow up to \$53 million from Aztar Corporation. The debt would be repaid on or before December 1, 2014 at an annual interest rate of 12%.
4. In a letter dated May 19, 2005, after analyzing the proposed debt transaction in accordance with the provisions of Resolution 2005-24, and after receiving assurances that Aztar Indiana's liability for the debt to be issued to its affiliate would not in any way hinder Aztar Indiana's ability to provide for its current working capital requirements or capital improvement needs or in any way impair its financial viability, Executive Director Ernest Yelton issued a waiver of 68 IAC 5-3-2 such that the proposed intercompany loan could proceed without the approval of the full Commission and without satisfying the "two meeting requirement" of 68 IAC 5-3-2(2) and (3).
5. 68 IAC 5-3-7 requires that such waiver be reported to the Commission in order that it may have the opportunity to direct the Executive Director to take additional or different action.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE

This resolution applies to Aztar Indiana Gaming Company, LLC.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

SECTION 3: RATIFICATION OF THE EXECUTIVE DIRECTOR'S WAIVER OF 68 IAC 5-3-2 AND APPROVAL, PURSUANT TO RESOLUTION 2005-24, OF AZTAR INDIANA GAMING COMPANY, LLC'S PROPOSED INTERCOMPANY LOAN OF UP TO \$53 MILLION.

The Commission hereby;

RATIFIES

(RATIFIES OR DENIES)

the Executive Director's issuance of a waiver of 68 IAC 5-3-2 pursuant to Resolution 2005-24, permitting the proposed intercompany loan of up to \$53 million at an annual interest rate of 12% to proceed without the approval of the full Commission and without satisfying the "two meeting requirement" of 68 IAC 5-3-2(2) and (3).

SECTION 5: EFFECTIVE DATE

This resolution is effective immediately.

ADOPTED THIS THE 23rd DAY OF JUNE, 2005.

THE INDIANA GAMING COMMISSION:

Harold Calloway, Chair

ATTEST:

Donald R. Vowels, Secretary